

# **EXHIBIT G**

(S. B. 1500)  
(Conference)

(No. 213)

(Approved September 12, 1996)

## **AN ACT**

To create the Telecommunications Regulatory Board of Puerto Rico, establish its powers and prerogatives, and provide for its organization; to repeal Act No. 64 of August 23, 1990, as amended; to establish the public policy of the Government of Puerto Rico concerning telecommunications; and for other purposes.

### **STATEMENT OF MOTIVES**

After having investigated, analyzed, and determined the needs and interests of the people of Puerto Rico regarding the development of the telecommunications field, and taking into account the action taken by the Federal Government with regard to the extent and applicability of these services to the general public by enacting the Federal Communications Act of 1996, this Legislature has determined that it is essential to establish a Board that fosters total, equal, and fair competition in telecommunications, and to promote and facilitate the construction and development of telecommunications facilities, in order to allow and ensure for the people of Puerto Rico, better and more varied telecommunications services at reasonable rates, in order to promote the economic development for the general welfare of our Island.

With this objective in mind, this Act creates the Telecommunications Regulatory Board of Puerto Rico, with the powers and prerogatives needed to establish a regulatory code that: (1) ensures the availability of universal

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telecommunications services at affordable rates for all citizens of Puerto Rico; (2) oversees the efficiency of telephone and cable television services, as well as other telecommunications services; (3) assures the continuity in the rendering of services of a social nature, such as public telephones in urban and rural areas, and telephone directories, according to the public need; (4) promotes competition; (5) allows and guarantees to Puerto Ricans the same telecommunications and information privileges enjoyed by the United States citizens; and (6) safeguards the public interest to the utmost.

The market conditions to be created by virtue of this Act shall stimulate and strengthen the competitiveness of Puerto Rico in the field of telecommunications, which shall, in turn, contribute to the creation of more jobs.

The Legislature acknowledges that the telecommunications industry pursues the public purpose of providing our population with proper access to telecommunications services, at reasonable and affordable rates and charges. The Board created by this Act shall protect the general public interest, ensuring for our people the access to telecommunications services, pursuant to the universal service principles established by the Federal Telecommunications Act of 1996, the regulations promulgated thereunder, and the objectives of this Act.

The Board created by this legislation shall operate independently and shall be vested with the capacity and powers needed to ensure, facilitate, and stimulate the construction and development of the facilities of all branches of telecommunications in Puerto Rico, to promote the effective and fair competition, and to detect and correct anti-competitive behavior, in order to strengthen this industry and, thus the socio-economic development of the citizenry in general.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

CHAPTER I.- PUBLIC POLICY OF THE GOVERNMENT OF PUERTO RICO  
FOR THE TELECOMMUNICATIONS INDUSTRY OF PUERTO  
RICO. GENERAL PROVISIONS

Section 1.- Short Title.

This Act shall be cited as the "Puerto Rico Telecommunications Act of 1996."

Section 2.- Statement of Public Policy.

It shall be the public policy of the Commonwealth of Puerto Rico to:

- (a) acknowledge the telecommunications service as one whose rendering pursues a high public interest within a competitive market;
- (b) provide universal service at a fair, reasonable, and affordable rate for all citizens;
- (c) distribute the duties, responsibilities, and obligations inherent to the development and preservation of universal service equitably among all telecommunications companies;
- (d) establish specific, predictable, and sufficient support mechanisms to preserve and develop universal service;
- (e) promote the investment of capital in the development of the telecommunications infrastructure;
- (f) ensure the availability of the broadest range of competitive possibilities in the offering of telecommunications services and facilities;
- (g) promote competition and use the market forces as key factors in determining the prices, terms, availability, and conditions of the service;
- (h) propitiate interconnection and interoperability among telecommunications companies;
- (i) ensure that no regulatory barriers or unnecessary administrative procedures exist which hamper competition in the market;
- (j) simplify the regulatory process in those situations in which regulation is necessary, and gear such regulations to the promotion of the consumer's

welfare and to penalize for anti-competitive practices in the telecommunications market ;

(k) regulate service providers in a manner compatible to their standing in the market and the influence they exert on consumers;

(l) promote the establishment of cost-based pricing, so that consumers pay for the services they are really receiving, pursuant to what is provided or authorized by the Federal Communications Act;

(m) eliminate direct or indirect subsidies between competitive and noncompetitive services, as well as prohibit any other subsidy which allows for unreasonably low prices to be sustained, whose purpose is to reduce competition or undermine a competitor;

(n) protect the right to privacy of the subscribers of telecommunications services and assure that the constitutional and legal provisions which guarantee this right are complied with;

(o) concentrate the primary jurisdiction with regard to the regulation of the telecommunications field in a single agency of the Commonwealth of Puerto Rico;

(p) govern its regulation process by the so-called forbearance process, as the Federal Act has established for providers of telecommunications service, performing its duty as guardian of the competitive environment and allowing for said environment to indeed regulate, in the first instance, the conduct of participating companies. The companies shall, in turn, commit themselves to seek, also in the first instance, negotiated solutions for controversies among them, resorting to administrative and/or judiciary forums if all *bona fide* negotiation efforts have been exhausted.

(q) give access to telecommunications services which can be reasonably compared to those provided in urban areas to consumers throughout the Island, including low-income consumers and those living in rural areas or in areas where access to such services is costly;

(r) guarantee the enjoyment of the service offered, without fear of unreasonable interruptions or interference;

(s) guarantee the nondiscriminatory rendering of services regardless of race, sex, origin, religion, or political affiliation;

(t) guarantee all subscribers that service shall not be discontinued unless there is just cause, and in each case, only after due notice;

(u) guarantee the utmost promptness in the re-establishment of service when the same is inevitably interrupted. Should said interruptions continue beyond a reasonable period of time, the telecommunications companies shall provide credit of the corresponding portion of the basic rate;

(v) guarantee that all controversies on billing or services be handled in an equitable and diligent manner; and

(w) ensure that no law or regulations of the Commonwealth of Puerto Rico or municipal ordinance limits, prohibits or has the effect to limit or prohibit the capacity of a telecommunications company to provide competitive telecommunications services at intra-state or interstate level.

### **Section 3.- Definitions.**

(a) "Local Exchange Carrier" shall mean any person engaged in rendering the local telecommunications exchange service or exchange access. This term does not include persons who render commercial mobile radio services under Section 332(c) of the Federal Communications Act, except to the extent that the Federal Communications Commission determines that said service should be included within that term.

(b) "Incumbent Local Exchange Service Carriers" shall mean the Puerto Rico Telephone Company, while there is no effective competition in the market.

(c) "Intrastate Long Distance Service Carrier" shall mean any person engaged in rendering long distance intrastate services.

(d) "Commercial Mobile Radio Service Carrier" shall mean any person engaged in rendering commercial mobile radio services as defined by the Federal Communications Act.

(e) "Competitive Access Service Carrier" shall mean any person engaged in rendering exchange access services in competition with the local exchange service carrier.

(f) "Exchange Access" shall mean the offering of access to telecommunications services or facilities in order to originate or terminate long distance telephone services.

(g) "Affiliate" shall mean a person who, directly or indirectly possesses or controls, is possessed or controlled by, or is jointly possessed or controlled with, another person. For the purposes of this clause, the term "possess" shall mean having proprietary interest or its equivalent, of more than ten (10) percent.

(h) "Bill and Keep" shall mean the mutual billing and accounting system which two telecommunications companies with interconnected networks shall charge each other, resulting in a rate of \$0 for terminating traffic in both directions.

(i) "Cable Company" shall mean any person who possesses, controls, operates or manages any plant, equipment and facility used to receive, amplify, modify and distribute through coaxial cable, fiber optics, metal or any other kind of cable, the signal originated by one or more television stations, programming services transmitted by wires, wireless, satellite or any other medium. The signals that can be projected in cinematography halls or that are received free of cost via satellite and that are not broadcast outside of the place where they are received, are excepted from this definition.

(j) "Telecommunications Company" shall mean any person who, whether partially or totally, directly or indirectly, possesses, controls, administers, operates, manages, supplies or resells, any telecommunications service in Puerto Rico, including services of access to the network; provided that those

cable companies which render telecommunications services shall be deemed to be telecommunications companies for the purposes of this Act.

(k) "Eligible Telecommunications Company" shall mean a telecommunications company which the Board designates to provide universal service in a specific geographical area.

(l) "Reciprocal Compensation" shall mean that flow of compensation between the networks interconnected by the traffic originating in the network of the telecommunications company which originates the call and vice versa.

(m) "Symmetrical Compensation" shall mean that the amount of traffic units compensation is equal in both directions between telecommunications companies whose networks are interconnected.

(n) "Effective Competition" shall mean that situation by which no telecommunications company has control of the market. Regarding cable service, the phrase "effective competition" shall have the same meaning as that indicated in the Federal Cable Television Act.

(o) "Market Control" shall mean the capacity of one person to exert control over the prices, terms or availability of goods or services, or the availability or functionality of substitutes in the market, pertinent to said goods and services.

(p) "Board" shall mean the Telecommunications Regulatory Board of Puerto Rico.

(q) "Federal Communications Act" shall mean the Federal Communications Act of 1934, as amended; which includes, in its totality, the Federal Telecommunications Act of 1996.

(r) "Federal Cable Television Act" shall mean the "Cable Act of 1984," as amended by the "Cable Television Consumer Protection and Competition Act of 1992", and the "Federal Telecommunications Act of 1996".

(s) "Parity in Dialing" shall mean the capacity of a person not affiliated to a local exchange service carrier, to provide telecommunications services so that his/her subscribers shall be enabled to automatically send, without



having to use any access code whatsoever, his/her telecommunications to the telecommunications company of his/her choice, between two or more telecommunications companies, including the local exchange service carrier.

(t) "Person" shall mean any person, whether natural or juridical, including, but without it being a limitation, any individual, corporation, partnership, association, trust, agency, public instrumentality or corporation, cooperative, cooperative association, special employee-owned corporations, or any combination of these, created, organized or existing under the laws of the Commonwealth of Puerto Rico, the United States of America, of any State of the Union, of any foreign State or Country.

(u) "Number of Portability" shall mean the capacity of the users of a telecommunications service to retain, at the same location, his/her existing telecommunications numbers, without impairing their quality, trustworthiness or convenience, when he/she changes from one telecommunications company to another.

(v) "Competitive Service" shall mean a telecommunications service where no single person exerts market control.

(w) "Intrastate Long Distance Service" shall mean service provided exclusively within Puerto Rico other than a local service and for which the client must pay a fee apart from the fees imposed by the local service.

(x) "Telecommunications Service" shall mean the offer of telecommunications directly to the public through payment, or to such classes of subscribers who actually make the service available directly to the public, regardless of the installations or means used. No part of this clause shall be interpreted to include transmission services through radio, television, cable service, including the "Multichannel Multipoint Distribution Service" or common television antennas.

(y) "Intrastate Telecommunications Service" shall mean the provision of telecommunications services originating and terminating in Puerto Rico.

(z) "Local Telecommunications Service" shall mean a telecommunications service rendered within a local area.

(aa) "Non-competitive Service" shall mean a telecommunications service where market control is exerted.

(bb) "Long Distance Telephone Service" shall mean non-local telecommunications service.

(cc) "Universal Service" shall mean an evolving level of basic telecommunications services in Puerto Rico, as established by the Board from time to time, pursuant to the Federal Communications Act.

(dd) "Right of way" shall mean for the purposes of this Act, any post, channel, conduit, or right of way which is owned or controlled by a telecommunications company.

(ee) "Telecommunications" shall mean the transmission of information selected by the subscriber, between points specified by the subscriber, without changing the format or content of the information sent and received.

## **Chapter II - CREATION OF THE TELECOMMUNICATIONS REGULATORY BOARD OF PUERTO RICO**

### **Section 1.- Creation of the Telecommunications Regulatory Board of Puerto Rico.**

(a) The Telecommunications Regulatory Board of Puerto Rico is hereby created as the agency in charge of regulating telecommunications services in Puerto Rico and of enforcing compliance and administering this Act. All orders and authorizations issued and granted by the Board shall be issued on behalf of the "Telecommunications Regulatory Board of Puerto Rico," and all procedures instituted by the Board shall be on behalf of the Commonwealth of Puerto Rico.

(b) The Board shall have an official seal which shall bear the words Telecommunications Regulatory Board of Puerto Rico and the design prescribed by the Board.

**Section 2.- Organization of the Board.**

(a) The Board shall be composed of three associate members, one of whom shall be its Chairperson, appointed by the Governor with the advice and consent of the Senate.

(1) The Governor shall fix the remuneration and other benefits of the associate members.

(b) Two (2) members of the Board shall constitute quorum for a session of the Board in full.

(c) All actions taken by the Chairperson or by one of the associate members shall be subject to review by the Board in full.

(d) The decisions of the Board shall be made by a majority of its members and shall be subject to review by the Circuit Court of Appeals of Puerto Rico; except in those cases in which the Federal Communications Act confers jurisdiction to the Federal Communications Commission or to the Federal District Court for the District of Puerto Rico.

**Section 3.- Members.**

(a) The members of the Board shall be citizens of the United States of America and residents of Puerto Rico, and shall have broad, recognized experience in the telecommunications industry. The members shall not have a direct or indirect interest in, nor any contractual relationship with the telecommunications companies subject to the jurisdiction of the Board, or in entities in or outside of Puerto Rico affiliated to, or having interests in said telecommunications companies. No member of the Board shall, once he/she has ceased his/her functions, represent any person or entity before the Board with regard to any matter in which he/she participated while at the service of the Board and for two (2) years following his/her separation from said office when having to do with any other matter. The activities of the members during and after the expiration of their terms shall be subject to the restrictions provided in the Government Ethics Act, Act No. 12 of July 24, 1985.

(b) The first members appointed by virtue of this Act, shall hold office for the following terms: The Chairperson for seven (7) years, one (1) associate member for five (5) and one (1) associate member for three (3) years. Their successors shall be appointed for a six (6) year term. Any person selected to fill a vacancy shall be appointed only for the unexpired term of the member he/she replaces. Upon the expiration of the term of any member, he/she shall continue to hold office until his successor has been appointed and has taken office. The terms shall be counted from the expiration date of the preceding term.

The Board shall promulgate those regulations needed to govern its internal operations, including the type and frequency of meetings, appointments, contracting and remuneration of the personnel.

#### **Section 4.- Chairperson.**

The Chairperson shall preside all the meetings of the Board, shall be in charge of all administrative operations and shall represent the Board in all matters related to legislation and legislative reports, but any member may set forth his/her dissident or supplementary opinion. The Chairperson shall also represent the Board when conferences or communications with other heads of agencies of the Commonwealth of Puerto Rico are required. In case of the absence of the Chairperson or his/her inability to fulfill his/her obligations, the Board shall temporarily designate one of its members to assume the office of Chairperson until the cause or circumstance that require said designation cease or is corrected.

#### **Section 5.- Personnel.**

The Board shall be deemed an individual administrator pursuant to the provisions of the Public Service Personnel Act of Puerto Rico, Act No. 5 of October 14, 1975, as amended.

The Board, upon consultation with the Government Ethics Office, shall promulgate an ethics regulation to regulate the relationship between its personnel and the telecommunications companies.

**Section 6.- Jurisdiction of the Board.**

(a) The Board shall have primary jurisdiction over all telecommunications services and over all those persons which render these services in the Commonwealth of Puerto Rico, and over any person with a direct or indirect interest in said services or companies. Specifically, the Board shall have jurisdiction over:

(1) Any person who violates the provisions of this Act or the regulations of the Board, including any person or entity that uses its control over the telecommunications services or companies to carry out such violation.

(2) Any person whose actions affect the rendering of telecommunications service, including any person or entity that uses its control over telecommunications services or companies to affect the rendering of the abovementioned services.

(3) Any person who carries out any activity for which a certification from the Board is necessary.

(4) Any person whose actions or omissions are detrimental to the activities, resources or interests over which the Board has regulatory, supervisory or surveillance powers, including any person who uses his/her control over telecommunications services or companies in such a manner that is detrimental to them.

The Board shall exercise its jurisdiction in all that not in conflict with federal statutory or regulatory provisions, especially those that correspond to the Federal Communications Commission, as well as those preemptive federal norms.

**Section 7.- General Powers and Duties of the Board.**

(a) The Board shall adopt, promulgate, amend and repeal such rules, orders and regulations it deems are necessary and pertinent to the exercise of its powers and to the performance of its duties. When adopting, amending or repealing rules or regulations, the Board shall be subject to the provisions of the Uniform Administrative Procedures Act, Act No. 170 of August 12, 1989, as amended; and also:

(1) Shall serve by certified mail to the telecommunications companies in Puerto Rico that have received a certification as provided in subsection (a) of Section 2 of Chapter III of this Act, a notice of proposals for regulations, which explains the adoption, amendment or repeal proposed by the Board, including information as to where the complete text of the proposed change may be obtained, and grants a term of not less than thirty (30) days to submit their comments on said proposal; and

(2) Prior to the adoption, amendment or repeal of a regulation, the Board shall issue a resolution explaining its reasons for said action, giving specific attention to each one of the points considered, in writing, with respect to the regulatory proposal.

(b) The Board shall have the following powers to ensure compliance with this Act and its regulations:

(1) Impose reasonable administrative fines for violations of this Act, its regulations and orders to a maximum of twenty-five thousand (25,000) dollars per violation.

(2) Demand any type of information that is needed for the adequate compliance of its powers, making it clear however, that the information deemed confidential by its source shall be duly safeguarded and delivered exclusively to the Board personnel who have strict need to know it, subject to the principle of nondisclosure. Any claim of confidentiality of information of a telecommunications company under this subsection shall be resolved expeditiously by the Board through a Resolution to such effect

before revealing any information deemed confidential by its source. The information furnished by each of the telecommunications companies regarding their prices and charges, as provided by subsection (a) of Section 7 of Chapter III of this Act, shall be public and available to any persons that requests it.

(3) Shall order the ceasing of activities or acts in violation of any provision of this Act or of the regulations of the Board.

(4) Impose and order the payment of costs, expenses and attorney fees, as well as the payment of expenses and fees for other professional and consulting services incurred for adjudicative procedures before the Board;

(5) Direct that any act in compliance with the provisions of this Act or with the regulations of the Board be carried out.

(6) Resort to the corresponding forums to enforce the purposes of this Act, as well as its rules, regulations, orders, resolutions and determinations;

(7) Appear before any private entity, public organization, court, board, committee, administrative organization, department, office or agency of the Commonwealth of Puerto Rico or of the United States Government in any hearing, procedure or matter that affects or could affect the purposes of this Act or the regulations that the Board promulgates or the interests of the consumers of telecommunications services; and

(8) Carry out any other acts, if necessary, to ensure compliance of this Act, or the regulations promulgated thereby, such as:

(i) conducting public hearings;

(ii) issuing summons under admonishment of contempt, which shall be signed by a member, and served personally or by certified mail with acknowledgment of receipt;

(iii) participate, by petition of a party, in negotiations between telecommunications companies and mediate the controversies that arise in the course of said negotiations; and

(iv) intervene as arbitrator pursuant to the provisions of Section 252(b) of the Federal Communications Act.

(c) The Board shall have authority to conduct inspections, investigations and audits, if necessary, to attain the purposes of this Act.

(d) The Board shall also have the following powers and faculties:

(1) To subsist in perpetuity, to sue and be sued as a juridical person; and

(2) Grant contracts and execute any kind of document that is necessary and convenient in the exercise of its powers.

(e) All agreements between the Board and any telecommunications company shall be in writing and all resulting documents shall be kept on file. The Board shall establish its offices and facilities separate from those of any company subject to its jurisdiction.

(f) All the actions, regulations and determinations of the Board shall be governed by the Federal Communications Act, the public interest, and especially by the protection of the consumers' rights.

#### **Section 8.- Expropriation and Right of Way.**

(a) Expropriation. The Board shall have the power to identify the private property that shall be expropriated for the rendering of telecommunications services pursuant to the objectives of this Act. Said property shall be expropriated by petition of the Board, by the Commonwealth of Puerto Rico represented by the Governor, or by the agency or official on whom the latter delegates.

(b) Legal Rights of Way. The Board shall adopt such rules and regulations for the establishment, use and enjoyment of easements for any facilities needed for the installation of the systems essential to render telecommunications services, as provided in Act No. 143 of July 20, 1979, as



amended. These benefits shall apply equally to all companies providing telecommunications services, with no distinction whatsoever.

In the rules and regulations to be adopted, the Board shall establish the obligations that arise from the enjoyment of this right. Among these, the obligation to coordinate with the other companies the installation, repair and maintenance work in order to reduce the damage that could be caused to the property affected by the easement, and its occupants, the norms to prevent the interruption of other services, and compensation for damages caused to the services rendered by other companies and to the property.

**Section 9.- Delegation of Powers.**

(a) On One or More Members. With the exception of the power to adopt regulations, the Board may, through an order, assign, refer or delegate any adjudicative or non-adjudicative matter for its resolution on one or more members who shall be appointed in said order and who shall have the powers of the Board that it expressly delegates in said order. The members shall have the power to (1) take oaths and depositions, (2) issue summons, (3) receive and evaluate evidence, (4) preside over hearings, (5) hold conferences to simplify procedures. Any order issued by one or more members pursuant to this Section shall become a final order of the Board in full, unless the Board renders ineffective, alters or amends the order within thirty (30) days after it has been notified. The decisions of the Board shall be subject to review by the Circuit Court of Appeals of Puerto Rico, except in those situations in which the Federal Communications Act confers jurisdiction on the Federal Communications Commission or the Federal District Court for the District of Puerto Rico.

(b) Examining Officials and Administrative Judges. The Board shall have the authority to assign, refer or delegate any matter to examining officials, who shall have the authority to recommend decisions which shall take effect once they have been approved by the Board in full. Any examiner appointed to preside over a hearing or investigation shall have the powers expressly

delegated on him/her by the Board and the designation order. The Board shall also designate administrative judges with full decisional powers. The said examining officials and administrative judges shall be designated and shall carry out their duties as provided by Act No. 170 of August 12, 1989, as amended, known as the "Uniform Administrative Procedures Act of Puerto Rico". The decisions of the Board shall be subject to review by the Circuit Court of Appeals of Puerto Rico, except in those situations in which the Federal Communications Act confers jurisdiction on the Federal Communications Commission or the Federal District Court for the District of Puerto Rico.

**Section 10.- Incidental Powers.**

The provisions of this Act shall be liberally construed in order to achieve its purposes and whenever any specific power or authority is granted to the Board, such specification shall not be construed as excluding or impeding any other power or authority otherwise conferred to it. The Board created herein shall have, in addition to the powers specified in this Act, all those additional, implicit or incidental powers that are pertinent and necessary to put into effect and carry out, perform and exercise all the abovementioned powers and to attain the purposes of this Act, subject to the superseding of said powers by federal legislation or rules of the Federal Communications Commission.

**Section 11.- Budget and Regulation Fees.**

(a) The Board shall impose and collect fees pursuant to the provisions of this Section in order to produce sufficient income to: (1) cover the operating expenses of the Board in complying with its responsibilities under this Act, and (2) establish a reserve, that the Board deems reasonable, to ensure the continuous and efficient operation of the Board, in accordance with its projected goals and objectives, and the experience of previous years'

expenses. Said reserve shall not exceed 25% of the annual budget of the Board.

(b) The annual fee to defray the annual operating expenses of the Board shall be fixed proportionally on the basis of the gross income generated by each telecommunications or cable company which provides telecommunications services from the rendering of telecommunications services in Puerto Rico. In the case of the resale of services, the gross income shall not include the cost corresponding to the acquisition of the service subject to resale. These fees shall be paid to the Board on a quarterly basis, pursuant to the regulations promulgated by it.

(c) The fees to be imposed on a telecommunications or cable company which provides telecommunications services pursuant to the preceding subsection, shall not exceed point twenty-five percent (.25%) of its annual gross income from the rendering of telecommunications services in Puerto Rico. Those telecommunications companies whose annual gross income in Puerto Rico is less than twenty-five thousand (25,000) dollars shall be exempted from the payment of said fees.

(d) The costs and fees paid by telecommunications and cable companies as provided in subsection (e) of the Section shall be credited against the charge imposed on said companies in subsection (b). All telecommunications or cable companies shall submit the information required by the Board in the manner and on the forms that it determines in order for it to indicate the amount of the charges established in this Section. The Board is not under the obligation to give prior notice nor opportunity of a hearing before imposing any charge.

(e) The Board can obligate a telecommunications or cable company to reimburse the fees, special expenses and other direct and incidental costs incurred for professional and consultation services in the course of

investigations, hearings and other procedures conducted with respect to said companies.

(f) The telecommunications and cable companies shall liquidate the payment of the charges imposed within a period of not more than thirty (30) days after notice to such respect. Any delay in the payment of said charges shall be subject to the payment of interest and penalties determined by the Board through regulations. The payment of the charges shall be made in the manner and through the negotiable instruments that the Board specifies in any notice of charges.

(g) No telecommunications or cable company may request judicial review of any charge imposed by the Board unless (1) said company has paid or posted bond to the satisfaction of the Board within the term established in subsection (f) of this Section or that the Board has extended said term; (2) simultaneously with said payment, posting of bond or petition for extension, said company has submitted a detailed justification explaining why it considers said payment to be excessive or illegal; and (3) ninety (90) days have elapsed from the date of notice of the charges imposed. No petition for judicial review may be based on arguments other than those alleged by the company before the Board. The Board shall not be bound to reimburse any portion of the charges if it certifies that said reimbursement would adversely affect the operations of the Board. If the Board issues said certification, then the telecommunications or cable company thus affected shall have the right to reduce the corresponding amount from the future charges imposed by the Board.

(h) The payments at present contributed for franchise fees by the cable companies to the Public Service Commission, pursuant to the last franchise granted by said Commission to the cable companies, shall be paid in full to the Board as of the effective date of this Act.

(i) The Secretary of the Treasury shall cover into a special account denominated as the "Special Telecommunications Regulatory Board Fund,"

the moneys collected by virtue of this Act, which may be used solely and exclusively to defray the operating and functioning expenses of the Board.

(j) The operating expense budget of the Board shall be consigned separately from the General Budget of Expenses of the Government of Puerto Rico.

### **CHAPTER III. REGULATION AND SUPERVISION**

#### **Section 1.- Transitory Classification of Providers.**

(a) On the date of approval of this Act, it shall be presumed that the incumbent local exchange service carrier has control of the market in the rendering of local telecommunications service, access service and intrastate long distance services and which it does not have in the cellular phones and beepers market.

(b) The Board may, once it has been requested and after the corresponding notification and public comments, forbear from applying or partially exempt a local exchange service carrier without control of the market in Puerto Rico from those provisions of this law of exclusive application to said local exchange service carrier, except the obligation to contribute to the universal service.

(c) Three months after the Board has been constituted, and by petition of the incumbent local exchange service carrier, or in any case, within three years after the effective date of this Act, the Board shall initiate a procedure which shall include public notice and comments, to determine if the incumbent local exchange service carrier shall retain control of the market on the totality or part of the telecommunications services markets indicated in subsection (a). If the Board determines that the incumbent local exchange service carrier does not have control of the market in any line of business, it may forbear from regulating the former or it may also exempt it from any of the provisions of this Act of exclusive application to the incumbent local exchange service carrier in the line of business in which the latter does not have control of the market.

**Section 2.- Certifications.**

(a) As of the date on which the Board promulgates the regulations required by this Section and with the exception of the provisions of Section 332 (c)(1) of the Federal Communications Act, all telecommunications companies shall receive a valid certification from the Board to render telecommunication services in Puerto Rico. The Board shall not have the authority to deny a petition for certification to provide telecommunications services for arbitrary or discriminatory reasons or whose purpose is to prevent competition.

(b) The Board shall adopt regulations specifying the form, content and procedures to file petitions for certification which shall be of uniform application. All applicants shall present evidence of their moral and financial standing, their experience and background in the field for which certification is petitioned. The Board shall issue the certification if it determines that, in addition to substantially complying with the uniform criteria established, it is consistent with the mandate of the Federal Communications Act, the objectives of public interest pursued by this Act and that it also safeguards consumers' interests.

(c) Every telecommunications company that provides services upon the effective date of the regulations described in this subsection, shall be entitled to receive a certification to provide said services. Within the ninety (90) days following the effectiveness of this Act, the Board shall adopt regulations specifying the form and content of the petitions for said certifications. The petitions of said telecommunications companies shall be submitted to the Board within ninety (90) days following the effective date of the regulations promulgated by the Board. Every petition submitted shall be deemed as granted once thirty (30) days have elapsed from the date of filing the petition. It shall not constitute a violation to this Act by a telecommunications company to continue rendering the services they were providing: (1) prior to the adoption by the Board of the regulation required by this subsection; (2)

prior to the expiration of the term to file petitions for automatic certification or franchise as provided in this section; or (3) before the Board takes action regarding the petition filed by said telecommunications company to provide said services.

(d) All certifications granted by the Board pursuant to the provisions of this Section may be modified, suspended or revoked by the Board, for just cause and after due notice and hearing.

(e) The Board shall not implement regulations, nor give orders, or impose requirements that have or could have as a result the prohibition or interference with the capacity of any person to provide telecommunications services, with the exception of the provisions of Section 253 of the Federal Communications Act.

#### **Section 3.- Discontinuation of Services.**

No local exchange service carrier shall discontinue, reduce or limit the total or partial service of a community without effective competition due to lack of profitability in the operation of said service unless it has a valid authorization from the Board for said discontinuation, reduction or limitation. The Board shall grant said authorization if it determines that the same does not violate the purposes of this Act. If the Board should deny a petition to discontinue, reduce or limit the total or partial service of a community, the local exchange service carrier shall be entitled to request or to continue to receive from the Board, fair and adequate compensation under the universal service program to continue rendering those services that are eligible to receive funds from said program. Any action that implies or causes a violation of this Section or the regulations adopted by the Board shall be null *ab initio*. The provisions of this Section shall not apply to services subject to effective competition.

#### **Section 4.- Competitive Safeguards. ✓**

(a) The Board shall adopt the regulations needed to require the incumbent local exchange service carrier to provide services and access to

its installations to any certified telecommunications company that requests it at any point of its network where it is technically feasible and in an unbundled manner, including any feature, function and capacity of its network, through the payment of fees determined on the basis of its real cost and profits as foreseen in the Federal Communications Act and under reasonable and nondiscriminatory conditions, mutually agreed on by the parties.

(b) Every telecommunications company shall have the duty to provide interconnection to its facilities directly or indirectly at any point within its network where it is technically feasible, under fair and nondiscriminatory terms and without unnecessary technical delays and restrictions.

(c) Every local exchange service carrier shall provide interconnection and access to its network at any point that is technically feasible through the payment of fees based on the real costs and profits as foreseen in the Federal Communications Act, and on individually designed terms, as agreed on in the interconnection contract with said telecommunications company, and in every case, and in accordance with terms not less favorable than those provided to the affiliates of the local exchange service carrier.

(d) Every local exchange service carrier shall offer and provide the features, functions and capacity of its network, in a nondiscriminatory manner, and subject to an interconnection contract consistent with the following principles:

(1) Each local exchange service carrier shall facilitate competition in the local exchange services allowing interconnection to other telecommunications companies at any point of its local network where it is technically feasible. Every local exchange service carrier shall offer access to its network in an unbundled manner giving separate access at any point of its network where technically feasible to: (i) local access lines (connecting the main offices of the local telephone service to the



subscriber's facilities); (ii) certain exchange functions of the main office; (iii) exchange functions of the "tandem" office and (iv) transport between the main office of the local exchange service carrier and/or the exchange equipment of the "tandem" offices. The local exchange service carriers may charge the telecommunications companies for the services or use of facilities which are indispensable to the rendering of the service or the facilities requested if said services or facilities are technically necessary to render the services requested.

(2) Each local exchange service carrier shall offer for resale at wholesale prices any telecommunications service that said carrier renders at retail price to subscribers other than telecommunications companies.

(3) All segregated rates negotiated by a local exchange service carrier in the interconnection contract shall follow a methodology that allows the local exchange service carrier to recover the real cost of providing the service plus a reasonable profit, as provided in Section 252(d)(1) of the Federal Communications Act.

(e) The Board shall make ensure that all telecommunications companies are fairly compensated for the transportation and termination of telecommunications services through their networks and that the compensation reflects the reasonable and necessary costs of each company. The Board shall require reciprocal compensation arrangements and shall allow arrangements of negotiated compensation, which may include bill and keep, symmetrical compensation, or any other reasonable distribution of fees that is acceptable to the contracting parties. By petition of the parties during the negotiations, the Board shall comply with the requirements of Section 5 of Chapter III of this Act and Section 252 of the Federal Communications Act of 1996.

(f) Every telecommunications company shall provide, under fair and nondiscriminatory terms, direct or indirect interconnection at any point of its network where technically feasible, and access to its installations with all the